

SERVICE DATE – NOVEMBER 3, 2014

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1087 (Sub-No. 1X)

GRENADA RAILWAY LLC—ABANDONMENT EXEMPTION—IN MONTGOMERY,  
CARROLL, HOLMES, YAZOO, AND MADISON COUNTIES, MISS.

Docket No. AB 1087 (Sub-No. 2X)

GRENADA RAILWAY LLC—ABANDONMENT EXEMPTION—IN YALOBUSHA  
COUNTY, MISS.

Decided: October 31, 2014

On December 17, 2013, Grenada Railway LLC (GRYR) filed with the Surface Transportation Board (Board) in Docket No. AB 1087 (Sub-No. 1X) a petition under 49 U.S.C. § 10502 for exemption from the prior approval requirements of 49 U.S.C. § 10903 to abandon the segment of its line of railroad between milepost 626.1 near Elliot and milepost 703.8 near Canton, a distance of 77.7 miles, in Montgomery, Carroll, Holmes, Yazoo, and Madison Counties, Miss. Notice of the petition was served and published in the Federal Register on January 6, 2014 (79 Fed. Reg. 702). In that notice, the Board instituted an exemption proceeding and notified the public that any replies to GRYR's petition for exemption would be due no later than January 27, 2014.<sup>1</sup>

Shortly thereafter, on January 2, 2014, GRYR filed in Docket No. AB 1087 (Sub-No. 2X) a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon its Water Valley Branch railroad line between milepost 604.0 at Water Valley Junction and milepost 614.42 at Bruce Junction, a distance of 10.42 miles in Yalobusha County, Miss. Notice of the proposed abandonment was served and published in the Federal Register on January 22, 2014 (79 Fed. Reg. 3,663). The Board's notice stated that the exemption would take effect on February 21, 2014, unless a formal expression of intent to file an offer of financial assistance (OFA) had been received or the exemption was stayed pending reconsideration.<sup>2</sup> On

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<sup>1</sup> Requests for a public use condition under 49 C.F.R. § 1152.28 or for interim trail use/rail banking under 49 C.F.R. § 1152.29 were also due by January 27, 2014.

<sup>2</sup> The Board's notice also provided that petitions to stay that do not involve environmental issues, formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2), and interim trail use/rail banking requests under 49 C.F.R. § 1152.29 were due by February 3, 2014, and that petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 were due by February 11, 2014.

January 27, 2014, the Board's Office of Environmental Analysis (OEA) issued an environmental assessment (EA) regarding the proposed abandonment and set a deadline of February 10, 2014, for public comments on the EA.

On January 17 and January 31, 2014, the Mississippi Transportation Commission (MTC) filed letters in these two proceedings, each stating that MTC would like to explore all alternatives to the proposed abandonment and asking the Board to defer the due date for filing protests or comments until April 28, 2014.<sup>3</sup> GRYR agreed to both requested postponements,<sup>4</sup> and the Board granted both. On February 14, 2014, OEA issued an EA in Docket No. AB 1087 (Sub-No. 1X), which also adopted the same April 28, 2014 comment deadline.

On April 11, 2014, the North Central Mississippi Regional Railroad Authority (NCMRRA) filed letters in both dockets asking for an additional 60-day extension of the filing deadline for protests and comments, until June 27, 2014. MTC filed in support of the extension requests and GRYR stated that it did not object.<sup>5</sup> In a single decision encompassing both dockets, the Board granted both extension requests and extended other procedural dates accordingly.<sup>6</sup>

On June 30, 2014, NCMRRA requested an additional 120-day extension of the comment deadline in both dockets. NCMRRA stated that it was in negotiations with two interested short line operators that are considering providing equity funding to complete the purchase of the lines, but that additional time was needed to complete the necessary due diligence. NCMRRA also indicated that it was working with the Federal Railroad Administration to identify funds for enhancing the lines once they had been acquired. No replies to those requests were received. By decision served July 22, the filing deadlines for comments in both dockets were extended to October 27, 2014, and other deadlines again were adjusted accordingly.<sup>7</sup>

On October 23, 2014, NCMRRA requested a further 60-day extension in both dockets "to properly complete negotiations with the seller and complete the transaction." After initially opposing the requested extensions, GRYR filed a letter on October 28, 2014, stating that NCMRRA and GRYR "have reached an agreement that the due date for the filing of protests or comments be extended to January 9, 2015."

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<sup>3</sup> MTC Letter 1, AB 1087 (Sub-No. 1X) (filed Jan. 17, 2014); MTC Letter 1, AB 1087 (Sub-No. 2X) (filed Jan. 31, 2014).

<sup>4</sup> GRYR Letter 1, AB 1087 (Sub-No. 1X) (filed Jan. 22, 2014); GRYR Letter 1, AB 1087 (Sub-No. 2X) (filed Jan. 31, 2014).

<sup>5</sup> MTC Letter 1 (filed Apr. 14, 2014); GRYR Letter 1 (filed Apr. 14, 2014).

<sup>6</sup> Grenada Ry.—Aban. Exemption—in Montgomery, Carroll, Holmes, Yazoo, & Madison Cntys., Miss., AB 1087 (Sub-No. 1X) et al. (STB served Apr. 24, 2014).

<sup>7</sup> Grenada Ry.—Aban. Exemption—in Montgomery, Carroll, Holmes, Yazoo, & Madison Cntys., Miss., AB 1087 (Sub-No. 1X) et al. (STB served July 22, 2014).

The Board favors the private resolution of disputes whenever possible. Here, GRYR and NCMRRA have agreed to an extension to January 9, 2015. Further, granting the extension appears to be in the best interest of preserving rail service on the affected lines. Accordingly, the Board will modify the comment deadlines as requested and adjust other procedural deadlines, as follows:

In Docket No. AB 1087 (Sub-No. 1X):

- Replies to GRYR's petition and comments regarding the Board's EA are due on January 9, 2015.<sup>8</sup>
- OFAs under 49 C.F.R. § 1152.27(b)(2) will be due no later than 10 days after the service date of any decision granting the petition for exemption.

In Docket No. AB 1087 (Sub-No. 2X):

- All petitions for stays or reopening, requests for interim trail use/rail banking under 49 C.F.R. § 1152.27(c)(2), requests for public use conditions under 49 C.F.R. § 1152.29, and comments regarding the Board's EA are due on January 9, 2015.
- OFAs under 49 C.F.R. § 1152.27(b)(2) will be due no later than 10 days after the service date of any decision granting GRYR's petition for exemption in Docket No. AB 1087 (Sub-No. 1X).<sup>9</sup>
- The effective date of the exemption will be the same as the effective date of any decision granting GRYR's petition for exemption in Docket No. AB 1087 (Sub-No. 1X).

On December 27, 2013, Robert Riley filed a motion to reject the petition in Docket No. AB 1087 (Sub-No. 1X). On October 22, 2014, Mr. Riley filed a letter stating that, because his motion to reject remained pending, and in light of the then-impending comment deadline of October 27, he should be provided "reasonable time" after any denial of his motion to file comments on the merits. However, by letter filed on October 27, 2014, Mr. Riley seeks to withdraw his request on grounds that the relief he had sought is no longer needed. The request to withdraw will be granted.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

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<sup>8</sup> The pendency of a motion to reject does not toll the comment deadline for any party.

<sup>9</sup> Each OFA must be accompanied by the filing fee of \$1,600. A notice of intent to file an OFA is not required because the Board previously waived the requirement under 49 C.F.R. § 1152.27(c)(2) for parties seeking to file an OFA in the Sub-No. 2X proceeding to first file a formal expression of intent to do so. Grenada Ry.—Aban. Exemption—in Yalobusha Cnty., Miss., AB 1087 (Sub-No. 2X), slip op. at 2 n.6 (STB served Feb. 7, 2014).

1. The procedural schedules in Docket Nos. AB 1087 (Sub-No. 1X) and AB 1087 (Sub-No. 2X) are modified as discussed above.

2. Robert Riley's October 22, 2014 request for additional time to comment following any Board denial of his pending motion to reject in Docket No. AB 1087 (Sub-No. 1X) is withdrawn.

3. This decision is effective on its date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.